

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

Minute Entry

**ECF CASE
FILED**

JUL 20 1999

KEVIN E. O'BRIEN, CLERK
UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

Hearing Information:

Debtor: BCE WEST, L.P.
Case Number: 2-98-12547-ECF-CGC Chapter: 11
Date / Time / Room: TUESDAY, JULY 20, 1999 10:00 AM 10TH FLOOR # 6
Bankruptcy Judge: CHARLES G. CASE II
Courtroom Clerk: RHONDA VAUGHAN
Reporter / ECR: RACHAEL STAPLETON

Matters:

- 1) CONTINUED HEARING ON DEBTOR'S MOTION FOR ORDER AUTHORIZING ASSUMPTION OF LEASE OF NONRESIDENTIAL REAL PROPERTY (STORE NO 1127)
R / M #: 867 / 0
- 2) EIGHTH MOTION FOR AUTHORITY TO SELL REAL PROPERTY OUTSIDE THE ORDINARY COURSE OF BUSINESS
R / M #: 968 / 0
- 3) SIXTH MOTION FOR AUTHORITY TO ASSUME NON-RESIDENTIAL REAL PROPERTY LEASES, AS AMENDED
R / M #: 969 / 0
- 4) FIFTH MOTION TO REJECT EXECUTORY CONTRACTS
R / M #: 970 / 0
- 5) CONTINUED MOTION FOR ORDER AUTHORIZING ASSUMPTION OF SUPPLY AGREEMENT WITH COCA-COLA USA
R / M #: 39 / 0
- 6) CONTINUED MOTION TO ASSUME INDEMNIFICATION AGREEMENTS
R / M #: 16 / 0
- 7) CONTINUED MOTION TO DETERMINE ADEQUATE ASSURANCES OF PAYMENT OF UTILITIES (GTE TELEPHONE OPERATIONS)
R / M #: 53 / 0
- 8) CONTINUED MOTION FOR ORDER AUTHORIZING ASSUMPTION OF LEASE OF NONRESIDENTIAL REAL PROPERTY
R / M #: 867 / 0
- 9) HOME DEPOT'S SUPPLEMENTAL OPPOSITION TO DEBTOR'S MOTION FOR ORDER AUTHORIZING ASSUMPTION OF LEASE OF NON-RESIDENTIAL REAL PROPERTY STORE NO 1127
R / M #: 0 / 0
- 10) MOTION FOR RELIEF FROM AUTOMATIC STAY FILED BY MIRUS A NEW JERSEY CORPORATION
R / M #: 0 / 0

Appearances:

SEE ATTACHED APPEARANCE SHEET

**UNITED STATES BANKRUPTCY COURT
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(continue)...2-98-12547-ECF-CGC

TUESDAY, JULY 20, 1999 10:00 AM

Proceedings:

Mr. Haines addresses item A1 and advises there are no other bidders .

COURT: IT IS ORDERED APPROVING THE SALE OF STORE #704 TO SHOPPING CENTER ENTERPRISES FOR \$650,000.00

Mr. Haines advises there is not a signed contract for store #2484 and asks the sale be approved to Miguel Santos for \$680,001.00.

THE COURT ASKS IF ANY OTHER PARTIES ARE PRESENT IN THE COURTROOM THAT LIKE TO BID ON STORE #2484.

Mr. Haytema bids \$690,001.00 on behalf of Burger King.

THE COURT ASKS IF MR. SANTOS OR HIS REPRESENTATIVE IS PRESENT IN THE COURTROOM OR ON THE TELEPHONE. THERE BEING NONE; IT IS ORDERED FINDING BURGER KING TO BE THE HIGHEST AND BEST OFFER FOR \$690,001.00. MR. SANTOS WILL BE ALLOWED TO EXERCISE HIS RIGHTS AS A BACKUP BIDDER.

MR. HAINES IS TO SUBMIT FORMS OF ORDER.

Mr. Haines addresses item A2 and advises the motion was duly noticed and there are no objections or modifications.

COURT. IT IS ORDERED GRANTING THE FIFTH MOTION TO REJECT EXECUTORY CONTRACTS. MR. HAINES IS TO SUBMIT A FORM OF ORDER.

Mr. Haines addresses item B2 and argues Mr. Booker and his client are in violation of the automatic stay and requests sanctions.

Mr. Booker advises he just received this matter and is not practiced in bankruptcy. He explains he represents Ida Newton in a discrimination action against Boston Market which went to hearing and Boston Market failed to appear. He advises recovery of the judgment has not been attempted since he found out about the bankruptcy and a proof of claim has been filed.

COURT: IT IS ORDERED FINDING THE JUDGMENT TO BE VOID AND OF NO COURSE AND FINDS THE JUDGMENT WAS ENTERED IN VIOLATION OF THE AUTOMATIC STAY. IT IS FURTHER ORDERED DENYING THE REQUEST FOR SANCTIONS. THE COURT FURTHER ORDERS MR. BOOKER TO TAKE ACTION TO VACATE THE JUDGMENT WITHIN 10 DAYS; FAILURE TO DO SO WILL RESULT IN THE COURT ENTERTAINING A NEW 9020 APPLICATION. MR. HAINES TO SUBMIT A FORM OF ORDER.

Mr. Miller advises he is filing an emergency motion to compel assumption or rejection of a sublease relating to store #421.

COURT: IT IS ORDERED SETTING AN EMERGENCY HEARING ON JULY 29, 1999 AT 3:30 P.M.

Mr. Haines advises a motion for relief from automatic stay was filed by Miris Corporation and a final hearing needs to be set.

COURT: IT IS ORDERED SETTING A FINAL HEARING ON AUGUST 11, 1999 AT 3:30 P.M.

**UNITED STATES BANKRUPTCY COURT
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(continue)... 2-98-12547-ECF-CGC

TUESDAY, JULY 20, 1999 10:00 AM

Mr. Haines addresses B5 and Mr. Davidoff requests an evidentiary hearing.

COURT: IT IS ORDERED SETTING AN EVIDENTIARY HEARING ON SEPTEMBER 8, 1999 AT 1:30 P.M. ON DEBTOR'S MOTION FOR ORDER AUTHORIZING ASSUMPTION OF LEASE OF NONRESIDENTIAL REAL PROPERTY RE: STORE #1127. A JOINT PRETRIAL STATEMENT IS TO BE FILED AND SERVED WITH A LIST OF WITNESSES AND EXHIBIT ON AUGUST 25, 1999.

Mr. Haines advises items C 1, 2, 4 and 6 are to be continued to the August hearing date.

APPEARANCE SHEET

CASE NO./NAME:

DATE/TIME:

98-12547 BC E West

July 20 10:00 a.m.

COUNSEL

CLIENT

Don Galley

Brian Davidoff

Bob Miller

Randy Haines

Randy Miller

Alison Lacey

Jordan Kroop

Marcia Busching

John Frazer

William Novotny

Duco Haytema

Christopher Bernard

Peter Kruger

Jim Rhue

Vaughn Becker

Marie Ballinger

Creditors' Committee

Home Depot - Store #1127

HMR Restaurants, Inc; Marriott Distributi
Services, Inc.

Debtor

Debtor

1995 Master Lease Group

GECC

Miris

Bank of America

CNL Landlords; United Capital

Seattle Pacific Realty

Burger King

B.C. Real Estate

Shopping Ctr Enterprises - Blockbuster

Ida Newton

BChick

BOSTON CHICKEN CONFERENCE CALL
SHIRLEY DUNBAR -- CONFERENCE LEADER
JULY 20, 1999 @ 12:00PM CT

PARTICIPANTS

BAILINGER, MLOU
BERNARD, CHRISTOPHER
BOOKER, VAUGHN
HAYTEMA, DUCO
KRUGER, PETER
RHUE, JIM

FIRM

BOSTON CHICKEN
BURGER KING (ON LINE W/ MR HAYTEMA)
ATTORNEY AT LAW (REP. IDA NEWTON)
SEATTLE PACIFIC REALITY
BOSTON CHICKEN
SHOPPING CENTER ENTERPRISES